

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule LSA Document #08-

DIGEST

Amends 312 IAC 6 for navigable waters and amends 312 IAC 10 for non-navigable waters to address general licenses and individual licenses for prospecting for hard mineral resources. Effective 30 days after filing with the Publisher.

312 IAC 6-2-3.8

312 IAC 6-2-6.8

312 IAC 6-5-10

312 IAC 10-2-24.5

312 IAC 10-2-33.3

312 IAC 10-5-11

NAVIGABLE WATERS

SECTION 1. 312 IAC 6-2-3.8 IS ADDED TO READ AS FOLLOWS:

312 IAC 6-2-3.8 “Hard mineral resources” defined

Authority: IC 14-10-2-4; IC 14-28-1-5; IC 14-29-1-8

Affected: IC 14-28-1; IC 14-29-1

Sec. 3.8. “Hard mineral resources” means naturally occurring alluvial deposits of the following:

- (1) Gold.**
- (2) Platinum.**
- (3) Silver.**
- (4) Lead.**
- (5) Copper.**
- (6) Diamonds and other gemstones.**
- (7) Other similar materials.** (*Natural Resources Commission; 312 IAC 6-2-3.8*)

SECTION 2. 312 IAC 6-2-6.8 IS ADDED TO READ AS FOLLOWS:

312 IAC 6-2-6.8 “Prospecting” defined

Authority: IC 14-10-2-4; IC 14-28-1-5; IC 14-29-1-8

Affected: IC 14-28-1; IC 14-29-1

Sec. 6.8. “Prospecting” refers to activities conducted in preparation for or to remove hard mineral resources. (*Natural Resources Commission; 312 IAC 6-2-3.8*)

SECTION 3. 312 IAC 6-5-10 IS ADDED TO READ AS FOLLOWS:

312 IAC 6-5-10 Prospecting in a navigable waterway
Authority: IC 14-10-2-4; IC 14-28-1-5; IC 14-29-1-8
Affected: IC 14-28-1; IC 14-29-1

Sec. 10. (a) This section governs prospecting in a navigable waterway which is subject to IC 14-28-1, IC 14-29-1, or IC 14-29-3.

(b) Unless otherwise provided in this section, a person must not engage in prospecting except as approved by the department in a written license.

(c) Without a written license or notice to the department, and except as provided in subsection (d), a person may engage in prospecting within the ordinary high watermark of a navigable waterway upon compliance with each of the following conditions:

(1) Lawful ingress to and egress from the navigable waterway is obtained.

(2) Written permission is obtained from any affected riparian owner.

(3) Prospecting is performed exclusively by one (1) or a combination of the following processes:

(A) Without the use of equipment.

(B) With the use of non-motorized equipment such as a pan, sluice box, or pick and shovel.

(C) With the use of suction equipment, including motorized equipment, having a hand-operated nozzle which has an opening not larger than five (5) inches in diameter.

(4) No mercury or other chemicals are used to assist with the recovery of hard mineral resources.

(5) Activities occur exclusively between sunrise and sunset.

(6) No mussels are taken in accordance with 312 IAC 9-9-3(b).

(7) No endangered species are taken in accordance with IC 14-11-34-12.

(d) The following waterways do not qualify for prospecting under subsection (c) or under 312 IAC 10-5-11(c):

(1) Blue River in Harrison, Crawford and Washington counties from river mile 57 downstream to river mile 11.5;

(2) Trail Creek and its tributaries downstream to Lake Michigan;

(3) East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Ditch;

(4) St. Joseph River and its tributaries in St. Joseph county from the Twin Branch Dam in Mishawaka downstream to the Indiana/Michigan state line;

(5) The Indiana portion of the open waters of Lake Michigan.

(e) Nothing in this section is intended to modify the rights of riparian owners.

(Natural Resources Commission; 312 IAC 6-5-10)

NON-NAVIGABLE WATERS

SECTION 4. 312 IAC 10-2-24.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 10-2-24.5 “Hard mineral resources” defined

Authority: IC 14-10-2-4; IC 14-28-1-5; IC 14-29-1-8

Affected: IC 14-28-1; IC 14-29-1

Sec. 24.5. “Hard mineral resources” means naturally occurring alluvial deposits of the following:

- (1) Gold.**
- (2) Platinum.**
- (3) Silver.**
- (4) Lead.**
- (5) Copper.**
- (6) Diamonds and other gemstones.**
- (7) Other similar materials.** (*Natural Resources Commission; 312 IAC 10-2-24.5*)

SECTION 5. 312 IAC 10-2-33.3 IS ADDED TO READ AS FOLLOWS:

312 IAC 10-2-33.3 “Prospecting” defined

Authority: IC 14-10-2-4; IC 14-28-1-5; IC 14-29-1-8

Affected: IC 14-28-1; IC 14-29-1

Sec. 33.3. “Prospecting” refers to activities conducted in preparation for or to remove hard mineral resources. (*Natural Resources Commission; 312 IAC 10-2-33.3*)

SECTION 6. 312 IAC 10-5-11 IS ADDED TO READ AS FOLLOWS:

312 IAC 10-5-11 Prospecting in a non-navigable waterway

Authority: IC 14-10-2-4; IC 14-28-1-5;

Affected: IC 14-28-1; IC 14-29-1

Sec. 11. (a) This section governs prospecting in a non-navigable waterway which is subject to IC 14-28-1 and 312 IAC 10.

(b) Unless otherwise provided in this section, a person must not engage in prospecting in a non-navigable waterway except as approved by the department in a written license.

(c) Without a written license or notice to the department, a person may engage in prospecting in a non-navigable waterway upon compliance with each of the following conditions:

- (1) Lawful ingress to and egress from the waterway is obtained.**
- (2) Written permission is obtained from the property owner or owners.**
- (3) Prospecting is performed exclusively by one (1) or a combination of the following processes:**

(A) Without the use of equipment.

(B) With the use of non-motorized equipment such as a pan, sluice box, or pick and shovel.

(C) With the use of suction equipment, including motorized equipment, having a hand-operated nozzle which has an opening not larger than five (5) inches in diameter.

(4) No mercury or other chemicals are used to assist with the recovery of hard mineral resources.

(5) Activities occur exclusively between sunrise and sunset.

(6) No mussels are taken in accordance with 312 IAC 9-9-3(b).

(7) No endangered species are taken in accordance with IC 14-11-34-12.

(d) The following waterways do not qualify for prospecting under subsection (c) or under 312 IAC 10-5-11(c):

(1) Blue River in Harrison, Crawford and Washington counties from river mile 57 downstream to river mile 11.5;

(2) Cedar Creek in Allen and DeKalb counties from river mile 13.7 to the confluence with the St. Joseph River;

(3) North Fork of Wildcat Creek in Tippecanoe and Carroll counties from river mile 43.11 to river mile 4.82 and the South Fork of Wildcat Creek in Tippecanoe county from river mile 10.21 to river mile 0.00.

(4) Trail Creek and its tributaries downstream to Lake Michigan;

(5) Galien River and its tributaries in LaPorte County.

(e) Nothing in this section is intended to modify the rights of riparian owners.

(Natural Resources Commission; 312 IAC 10-5-11)